

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

PHILIP BURLING,

Defendant.

CASE NO. 8:12CR211

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report and Addendum (“PSR”), and the Defendant’s Objections to the Revised Presentence Investigation Report (Filing No. 47). The government filed an Objection to the Revised Presentence Investigation Report and Plaintiff’s Statement. (Filing No. 46.) The Defendant has filed a Motion for Variance (Filing No. 48). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The parties' objections to the PSR (Filing Nos. 46 and 47) will be heard at the sentencing hearing, and the Court intends to adopt the parties' plea agreement;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 2 of this Order, these tentative findings are final;

5. The Defendant's Motion for Variance (Filing No. 48) will be heard at sentencing; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 28th day of May, 2013.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge